

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36267]

Grand Trunk Western Railroad Company—Trackage Rights Exemption—Norfolk

Southern Railway Company and Grand Elk Railroad LLC

Grand Trunk Western Railroad Company (GTW) has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(7) to acquire trackage rights on a line of railroad in Kalamazoo, Mich., owned by Norfolk Southern Railway Company (NSR), and leased to Grand Elk Railroad LLC (GDLK).¹ GTW states that NSR and GDLK have agreed, pursuant to a written amendment to a trackage rights agreement, to grant GTW additional overhead trackage rights from milepost 2.17 at Miller Road southward to milepost 3.67 at Kilgore Road, a distance of approximately 1.50 miles.²

The verified notice states that the proposed transaction will afford GTW the ability to use the siding positioned between Miller Road and Kilgore Road to run around its railroad equipment to permit greater operating efficiency in its provision of common carrier service.

¹ GTW filed a supplement to its notice on May 9, 2019, to clarify the mileposts for the trackage rights to be acquired, and to submit a revised map.

² A redacted version of the agreement between GTW and NSR was filed with GTW's verified notice of exemption. GTW simultaneously filed a motion for a protective order to protect the confidential and commercially sensitive information in the unredacted version of the agreement, which GTW submitted under seal. That motion will be addressed in a separate decision.

The transaction may be consummated on or after May 30, 2019, the effective date of the exemption (30 days after the verified notice of exemption was filed).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed by May 23, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36267, must be filed with the Surface Transportation Board, either via e-filing or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on GTW's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606-3208.

According to GTW, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c), and from historic reporting under 49 C.F.R. § 1105.8(b)(3).

Board decisions and notices are available at www.stb.gov.

Decided: May 13, 2019.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.